

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01008-EGS**

CAMPAIGN LEGAL CENTER v. GENERAL SERVICES
ADMINISTRATION

Assigned to: Judge Emmet G. Sullivan
Cause: 05:552 Freedom of Information Act

Date Filed: 04/30/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

CAMPAIGN LEGAL CENTER

represented by **Mark P. Gaber**
CAMPAIGN LEGAL CENTER
1411 K Street NW
Suite 1400
Washington, DC 20005
(202) 736-2202
Fax: (202) 736-2222
Email: mgaber@campaignlegalcenter.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adav Noti

CAMPAIGN LEGAL CENTER
1411 K Street NW
Suite 1400
Washington, DC 20005
(202) 736-2203
Fax: (202) 736-2222
Email: anoti@campaignlegalcenter.org
ATTORNEY TO BE NOTICED

V.

Defendant

**GENERAL SERVICES
ADMINISTRATION**

represented by **Denise M. Clark**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-6605
Fax: (202) 252-2599
Email: denise.clark@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/30/2018	<u>1</u>	COMPLAINT against GENERAL SERVICES ADMINISTRATION (Filing fee \$ 400 receipt number 0090-5449885) filed by CAMPAIGN LEGAL CENTER. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Civil Cover Sheet, # <u>6</u> Summons as to Attorney General, # <u>7</u> Summons as to General Services Administration, # <u>8</u> Summons as to United States Attorney)(Noti, Adav) (Entered: 04/30/2018)
04/30/2018	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by CAMPAIGN LEGAL CENTER (Noti, Adav) (Entered: 04/30/2018)
04/30/2018	<u>3</u>	NOTICE of Appearance by Mark P. Gaber on behalf of CAMPAIGN LEGAL CENTER (Gaber, Mark) (Entered: 04/30/2018)

05/01/2018		Case Assigned to Judge Emmet G. Sullivan. (zsb) (Entered: 05/01/2018)
05/01/2018	<u>4</u>	SUMMONS (3) Issued Electronically as to GENERAL SERVICES ADMINISTRATION, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Notice and Consent)(zsb) (Entered: 05/01/2018)
05/02/2018	<u>5</u>	STANDING ORDER: The parties are directed to read the attached Standing Order Governing Civil Cases Before Judge Emmet G. Sullivan in its entirety upon receipt. The parties are hereby ORDERED to comply with the directives in the attached Standing Order. Signed by Judge Emmet G. Sullivan on 05/02/18. (Attachment: # <u>1</u> Exhibit 1) (mac) (Entered: 05/02/2018)
05/11/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. GENERAL SERVICES ADMINISTRATION served on 5/9/2018 (Gaber, Mark) (Entered: 05/11/2018)
05/11/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 05/11/2018. (Gaber, Mark) (Entered: 05/11/2018)
05/11/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 5/11/2018. Answer due for ALL FEDERAL DEFENDANTS by 6/10/2018. (Gaber, Mark) (Entered: 05/11/2018)
05/24/2018	<u>9</u>	NOTICE of Appearance by Denise M. Clark on behalf of All Defendants (Clark, Denise) (Entered: 05/24/2018)
06/07/2018	<u>10</u>	ANSWER to Complaint by GENERAL SERVICES ADMINISTRATION.(Clark, Denise) (Entered: 06/07/2018)
07/13/2018		MINUTE ORDER. Plaintiff brings this action pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. The parties are directed to meet and confer and propose a joint scheduling order for further proceedings in this case by no later than August 1, 2018. The parties' joint proposed scheduling order shall address the following: (1) The status of plaintiff's FOIA request; (2) The anticipated number of documents responsive to plaintiff's FOIA request; (3) The anticipated date(s) for release of documents responsive to plaintiff's FOIA request; (4) Whether a motion for an Open America stay is likely in this case; (5) Whether a Vaughn index will be required in this case; (6) Whether this case would benefit from referral to a magistrate judge or the District Court Mediation Program for purposes of settlement; and (7) A proposed briefing schedule for dispositive motions, if applicable. If the parties are unable to agree on a joint recommendation, the joint proposed scheduling order shall include each party's individual recommendations. Signed by Judge Emmet G. Sullivan on 7/13/2018. (lcegs3) (Entered: 07/13/2018)
07/13/2018		Set/Reset Deadlines: Joint Proposed Scheduling Order due by 8/1/2018. (mac) (Entered: 07/13/2018)
08/01/2018	<u>11</u>	Joint STATUS REPORT by CAMPAIGN LEGAL CENTER. (Noti, Adav) (Entered: 08/01/2018)
08/03/2018		MINUTE ORDER. The Court has reviewed <u>11</u> joint status report, in which the parties include their opposing positions regarding a briefing schedule for dispositive motions. The Court has considered both parties' arguments and declines to set a briefing schedule at this time. However, the Court hereby DIRECTS the GSA to refer to each agency the responsive records it has in its possession for review and determination by no later than September 1, 2018. When an agency receives a FOIA request for records in its possession, "it must take responsibility for processing the request," even if the documents originated elsewhere. <i>McGehee v. CIA</i> , 697 F.2d 1095, 1110 (D.C. Cir. 1983). Referrals to the originating agency are appropriate, but a referral system constitutes withholding "if its net effect is significantly to impair the requester's ability to obtain the records or significantly to increase the amount of time [s]he must wait to obtain them." <i>Id.</i> Withholding is "'improper' unless the agency can offer a reasonable explanation for its procedure." <i>Id.</i> The Court agrees, at least at this stage, that it appears that it was proper for the GSA to refer the documents to the originating agencies for their review. See <i>Sussman v. U.S. Marshals Serv.</i> , 494 F.3d 1106, 1108 (D.C. Cir. 2007). However, GSA only referred the plaintiff's FOIA request to the

		applicable agencies. In the cases GSA cites in support of its position, the primary agency referred the responsive documents to the originating agency for review and determination. See, e.g., <i>Inst. for Pol'y Stud. v. CIA</i> , 885 F. Supp. 2d 120, 241 (D.D.C. 2012); <i>Wilson v. DOT</i> , 730 F. Supp. 2d 140, 154 (D.D.C. 2010). In light of the plaintiff's statements regarding the contradictory responses received thus far from the various agencies, it is appropriate to direct GSA to refer to each agency the responsive documents it has in its possession for review and determination. The parties are further ordered to file another joint status report to update the Court on the status of the production by no later than September 17, 2018. Signed by Judge Emmet G. Sullivan on 8/3/2018. (lcegs3) (Entered: 08/03/2018)
08/03/2018		Set/Reset Deadlines: Joint Status Report due by 9/17/2018. (mac) (Entered: 08/03/2018)
09/17/2018	<u>12</u>	Joint STATUS REPORT by GENERAL SERVICES ADMINISTRATION. (Clark, Denise) (Entered: 09/17/2018)
09/18/2018	<u>13</u>	ERRATA re: <i>Final Joint Status Report</i> by GENERAL SERVICES ADMINISTRATION <u>12</u> Status Report filed by GENERAL SERVICES ADMINISTRATION. (Attachments: # <u>1</u> Errata)(Clark, Denise) (Entered: 09/18/2018)
09/18/2018		MINUTE ORDER in view of <u>13</u> joint status report, the parties are directed to file another status report by October 12, 2018. The Court expects the remaining eleven (11) agencies to respond promptly to GSA's request; the Court will consider setting a briefing schedule for a final determination after October 12, 2018. Signed by Judge Emmet G. Sullivan on 9/18/2018. (lcegs3) (Entered: 09/18/2018)
09/19/2018		Set/Reset Deadlines: Status Report due by 10/12/2018 (mac) (Entered: 09/19/2018)
10/12/2018	<u>14</u>	Joint STATUS REPORT by CAMPAIGN LEGAL CENTER. (Gaber, Mark) (Entered: 10/12/2018)
10/16/2018		MINUTE ORDER in view of <u>14</u> joint status report, in which the parties disagree as to the proper next steps, the Court hereby schedules a status conference for 1:00 pm on November 5, 2018. The Court expects that the remaining agencies will expeditiously respond to the plaintiff's request in the interim, per the Court's previous Orders. Signed by Judge Emmet G. Sullivan on 10/16/2018. (lcegs3) (Entered: 10/16/2018)
10/17/2018		Set/Reset Hearings: Status Conference set for 11/5/2018 at 1:00 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 10/17/2018)
11/02/2018		MINUTE ORDER directing the parties to file a joint status report updating the Court on the status of production by no later than 9:00 am on Monday, November 5, 2018. Signed by Judge Emmet G. Sullivan on 11/2/2018. (lcegs3) (Entered: 11/02/2018)
11/02/2018		Set/Reset Deadlines: Joint Status Report due on 11/5/2018 by 9:00am. (mac) (Entered: 11/02/2018)
11/05/2018	<u>15</u>	Joint STATUS REPORT by GENERAL SERVICES ADMINISTRATION. (Clark, Denise) (Entered: 11/05/2018)
11/05/2018		MINUTE ORDER. Due to unforeseen circumstances, the status conference previously scheduled for 1:00 pm on November 5, 2018 is rescheduled to 1:30 pm on November 5, 2018 in Courtroom 24A. PLEASE NOTE THE TIME CHANGE. The Court regrets any inconvenience to the parties. Signed by Judge Emmet G. Sullivan on 11/5/2018. (lcegs3) (Entered: 11/05/2018)
11/05/2018		Set/Reset Hearings: Status Conference set for 11/5/2018 at 1:30 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 11/05/2018)
11/05/2018		Minute Entry for proceedings held before Judge Emmet G. Sullivan: Status Conference held on 11/5/2018. Status Conference set for 12/3/2018 at 11:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. Order Forthcoming. (Court Reporter CRYSTAL PILGRIM.) (mac) (Entered: 11/05/2018)
11/05/2018	<u>16</u>	NOTICE of Proposed Order by GENERAL SERVICES ADMINISTRATION re <u>15</u> Status Report (Clark, Denise) (Entered: 11/05/2018)

11/06/2018		MINUTE ORDER. Due to the Court's calendar, the status hearing previously scheduled for December 3, 2018 at 11:00 am is hereby rescheduled to December 3, 2018 at 10:00 am. PLEASE NOTE THE TIME CHANGE. The Court regrets any inconvenience to the parties Signed by Judge Emmet G. Sullivan on 11/6/2018. (lcegs3) (Entered: 11/06/2018)
11/07/2018		Set/Reset Hearings: Status Conference set for 12/3/2018 at 10:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 11/07/2018)
11/07/2018	<u>17</u>	ORDER That The Defendant Will Produce To Plaintiff The Senior Federal Travel Reports Submitted To Defendant In Calendar Year 2017 By The Close Of Business On November 30, 2018. Signed by Judge Emmet G. Sullivan on 11/06/18. (mac) (Entered: 11/07/2018)
12/03/2018		MINUTE ORDER. In light of the representations made at the December 3, 2018 status conference, the parties are directed to file a joint status report updating the Court as to the status of negotiations and providing recommendations for further proceedings by no later than February 4, 2019. Signed by Judge Emmet G. Sullivan on 12/3/2018. (lcegs3) (Entered: 12/03/2018)
12/03/2018		Minute Entry for proceedings held before Judge Emmet G. Sullivan: Status Conference held on 12/3/2018. (Court Reporter LISA MOREIRA.) (mac) (Entered: 12/03/2018)
12/03/2018		Set/Reset Deadlines: Parties Recommendation due by 2/4/2019. (mac) (Entered: 12/03/2018)
02/04/2019	<u>18</u>	Joint STATUS REPORT by CAMPAIGN LEGAL CENTER. (Gaber, Mark) (Entered: 02/04/2019)